

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1365

AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:

- (1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;
- (2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or
- (3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.

(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:

- (1) whether the person has or does not have possession of the real estate; and
- (2) regardless of the:
  - (A) adequacy of the security; or
  - (B) solvency of the assignor, mortgagor, or pledgor.

(c) If a person:

- (1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and

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(2) does not have possession of the real estate;  
the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

**(d) A mortgagee seeking equitable subrogation with respect to a lien may not be denied equitable subrogation solely because:**

**(1) the mortgagee:**

**(A) is engaged in the business of lending; and**

**(B) had constructive notice of the intervening lien over which the mortgagee seeks to assert priority;**

**(2) the lien for which the mortgagee seeks to be subrogated was released; or**

**(3) the mortgagee obtained a title insurance policy.**

**(e) Subsection (d) does not apply to a municipal sewer lien under IC 36-9-23 or a mechanic's lien under IC 32-28-3-1.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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